

FILED
U.S. DIST. COURT
BRUNSWICK DIV.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

2005 OCT -6 A 8:15
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CLERK
U.S. DIST. COURT
BRUNSWICK DIVISION

CHARLESTON KELLY, JR.,

Petitioner,

vs.

CIVIL ACTION NO. CV204-172

JOSE VASQUEZ, Warden,

Respondent.

ORDER

After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Kelly asserts that the rule of lenity should apply in this case because 18 U.S.C.A. § 3624(b)(1), the good conduct time statute, is ambiguous. Kelly urges the Court to adopt the reasoning of Moreland v. Federal Bureau of Prisons, 363 F. Supp.2d 882 (S.D. Tex. 2005).

The Court declines to adopt the reasoning of Moreland. Instead, this Court is bound by the Eleventh Circuit Court of Appeals' decision in Brown v. McFadden, ____ F.3d ___, 2005 WL 1618739 (11th Cir. July 12, 2005). In Brown, the Eleventh Circuit held that the rule of lenity is not applicable because the Bureau of Prisons' interpretation of § 3624(b)(1) is reasonable. Brown, ____ F.3d at ___, 2005 WL 1618739, at *2.

Kelly's Objections are without merit. The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Kelly's petition for writ of habeas corpus, filed pursuant to 28 U.S.C.A. § 2241 (Doc. No. 1), is **DENIED**. The Clerk of Court is hereby authorized and directed to enter an appropriate Judgment of Dismissal.

SO ORDERED, this 5th day of October, 2005.



JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA